

## **REMARKS/ARGUMENTS**

### **I. Disposition of the Claims**

Claims 12, 13, 15, 16, 19-25, 27, 28, and 31-35 are pending in this application. None of the claims have been amended herein. Applicants respectfully request that the Examiner consider the application in view of the following remarks.

### **II. Remarks Regarding the Rejections of Under 35 U.S.C. § 102(b) and § 103(a)**

#### **A. Claims 12, 13, 15, 16, 19-25, 27, 28, and 31-35**

The Examiner has rejected claims 12, 13, 15, 16, 19-25, 27, 28, and 31-35 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 4,336,145 issued to Briscoe (hereinafter "*Briscoe*").

With respect to these claims, the Examiner states:

Briscoe exemplifies liquid gel concentrates (table I) of hydroxypropylguar, water, NaOH and optionally inhibitor [sic]. The pH of the mixture is 9-14 (col 10 line 27). This envelops applicant's preferred pH range of "about 10-13" (claim 34). According to applicant (paragraph 6) this pH causes the insoluble residues to dissolve. Presumably, Briscoe would inherently be devoid of insoluble residues also. The concentrate can be diluted at a 1:15 ratio with additional water (col 8 line 15). In order to reverse the inhibition, acid can be added to lower the pH to 5-9 (col 7 line 40). This suggests applicant's claim 35. The pH adjustment is not always necessary (col 8 line 8).

(Office Action, page 2.) Applicants respectfully disagree, and submit that the Examiner has not shown that *Briscoe* discloses or suggests every element as recited in claims 12, 13, 15, 16, 19-25, 27, 28, and 31-35 as required to anticipate the claims under 35 U.S.C. § 102(b), or to obviate the claims under 35 U.S.C. § 103(a). MANUAL OF PATENT EXAMINING PROCEDURE § 2131, 2142 (hereinafter "MPEP"). In particular, *Briscoe* does not disclose or suggest every element as set forth in claims 12 and 24 because *Briscoe* does not disclose "a viscous gelled treating fluid substantially devoid of a water insoluble gelling agent residue."

A gelling agent residue is produced upon the hydration of certain gelling agents. See present disclosure at ¶ [0004]. The present invention provides that a base is added to a treatment fluid comprising a hydrated gelling agent and the base is then allowed to dissolve the gelling agent residue present in the fluid. See present disclosure at ¶ [0006] and [0022]. In contrast, *Briscoe* discloses adding a base and a hydration inhibitor to a gelling agent to produce

“an aqueous hydration inhibited concentrate.” (*Briscoe*, col. 4, lines 40-49.) Most of the gelling agent present in the concentrate of *Briscoe* is unhydrated, and therefore no substantial amount of gelling agent residue would be present for the base to dissolve. *See Briscoe*, col. 3 lines 29-60. However, upon reversal of the hydration inhibition of the concentrates disclosed in *Briscoe*, by adding a base and additional water, a water insoluble residue would then form, resulting in a treatment fluid that would not be substantially devoid of a water insoluble gelling agent residue. *See Briscoe*, col. 7, lines 29-57. The base present in the treatment fluid would not be allowed to dissolve the gelling agent residue because the base is added “continuously as the high viscosity treating fluid is introduced into the formation.” *See Briscoe*, col. 7, line 58 - col. 8, line 9. Therefore, because the base would not be given sufficient time to dissolve the gelling agent residue in the fluid, this residue would remain in the treatment fluids disclosed in *Briscoe*.

Therefore, because *Briscoe* does not disclose “a viscous gelled treating fluid substantially devoid of a water insoluble gelling agent residue,” applicants assert that independent claims 12 and 24 are not anticipated or obviated by *Briscoe*. Moreover, since “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers,” and since claims 13, 15, 16, 19-23, 25, 27, 28, and 31-35 depend, either directly or indirectly, from claims 12 or 24, these dependent claims are allowable for at least the same reasons. *See* 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicant respectfully requests the withdrawal of these rejections.

**B. Claims 12, 13, 15, 16, 19, 20, 22, 24, 25, 27, 28, 31, 32, and 34**

The Examiner has rejected claims 12, 13, 15, 16, 19, 20, 22, 24, 25, 27, 28, 31, 32, and 34 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,547,026 issued to Brannon (hereinafter “*Brannon*”).

With respect to these claims, the Examiner states:

Brannon teaches guar based gels (abstract). Brannon adds 20 lbs + 100 lbs of polymer and buffer such as ammoniumhydroxide to 1000 gallons of water (col 5 line 18-25). The pH is 10-11 (col 5 line 26). The pH and polymer concentration correspond to applicant’s preferred amounts (eg claims 31, 34) and therefore it is presumed that no gelling agent residue remains.

(Office Action, page 2.) Applicants respectfully disagree, and submit that the Examiner has not shown that *Brannon* discloses or suggests every element as recited in claims 12, 13, 15, 16, 19,

20, 22, 24, 25, 27, 28, 31, 32, and 34 as required to anticipate the claims under 35 U.S.C. § 102(b), or to obviate the claims under 35 U.S.C. § 103(a). MANUAL OF PATENT EXAMINING PROCEDURE § 2131, 2142 (2004) (hereinafter “MPEP”).

In particular, *Brannon* does not disclose or suggest every element as set forth in claims 12 and 24 because *Brannon* does not disclose “a viscous gelled treating fluid substantially devoid of a water insoluble gelling agent residue.” Rather, *Brannon* discloses a blocking gel that would have a gelling agent residue present when the gel is placed into a subterranean formation. The blocking gel of *Brannon* comprises an amount of hydrated polymer and a pH buffer, in addition to an amount of unhydrated polymer. (*Brannon*, col. 4, lines 33-56). *Brannon* does not disclose that the pH buffer present in the gel would be given sufficient time to dissolve the gelling agent residue, which is present as a result of the hydrated polymer. Rather, *Brannon* discloses that the pH buffer is added prior to the addition of the unhydrated polymer simply to limit the hydration of the unhydrated polymer. (See *Brannon*, col. 5, lines 23-26). Therefore, the gelling agent residue would still be present in the fluid as the gel is placed into the subterranean formation and as such *Brannon* does not disclose “a viscous gelled treating fluid substantially devoid of a water insoluble gelling agent residue.”

Therefore, Applicants assert that independent claims 12 and 24 are not anticipated or obviated by *Brannon*. Moreover, since “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers,” and since claims 13, 15, 16, 19, 20, 22, 25, 27, 28, 31, 32, and 34 depend, either directly or indirectly, from claims 12 or 24, these dependent claims are allowable for at least the same reasons. See 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicant respectfully requests the withdrawal of these rejections.

### **III. No Waiver**

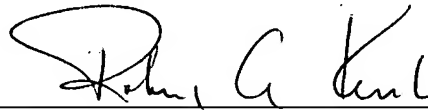
All of Applicants’ arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the *Briscoe* and *Brannon* references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art. The example distinctions discussed by Applicants are sufficient to overcome the anticipation and obviousness rejections.

**SUMMARY**

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections and objections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no additional fees are due in association with the filing of this Response. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, the Commissioner is authorized to debit the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Kent", is written over a horizontal line.

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